UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,233	05/26/2000	Richard I. Adduci JR.	10022/15	8233

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EXAMINER
BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
3693	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/580,233	ADDUCI ET AL.
	Examiner	Art Unit	
	Jason M. Borlinghaus	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>2/27/06</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating

obviousness or nonobviousness.

Claims 1 – 7, 9 –10, 17 – 23 and 25 – 26 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Kotler (Kotler, Philip & Armstrong, Gary. *Principles of*

Marketing 8th Edition. Prentice Hall. Upper Saddle River, New Jersey. 1999. pp. 98 -

114, 156 – 159, 196 – 215, 250 – 268, 274 – 294, 305 – 309, 320, 328 – 345 and A1 –

A14) in view of Disclosed Prior Art (applicant's specification), Bohlin (Bohlin, Erik &

Levin, Stanford L. *Telecommunications Transformation: Technology, Strategy & Policy.*

IOS Press. Amsterdam, Netherlands. 1998. p. 15), Dorf (Dorf, Richard C. *The*

Technology Handbook CRC Press. Boca Raton, Florida. 1999. pp. 3-20 – 3-27), Porter

(Porter, Alan; Roper, A. Thomas; Mason, Thomas W.; Rossini, Frederick A.; Banks,

Jerry. *Forecasting & Management of Technology. John Wiley & Sons*. 1991. pp. 90 –

97), Mahajan (Mahajan, Vijay & Peterson, Robert A. *Models for Innovation Diffusion.*

Sage Publications. Newbury Park, California. 1985. p. 8), Townsend (Townsend, Carl.

Mastering Excel 4 For Windows. Sybex. Alameda, California. 1992. pp. 387 – 397, 423

– 451 and 624 – 636) and Weerahandi (Weerahandi, Samaradasa & Moitra, Soumyo.

Using Survey Data to Predict Adoption and Switching for Services. Journal of Marketing

Research. vol. 32, iss. 1. February 1995. pp. 85 - 96).

Regarding Claim 1, Kotler discloses a method comprising:

- accepting (gathering) user-specific input (consumer answers) relating to a

  new product or service (via concept testing and/or test marketing). (see

  pp. 279 – 280 and 282 – 284);

- accepting user-specific input (respondents answers) into a computer

  relating to a new product or service and an existing product of service (via

  computer interviewing and/or online marketing research). (see pp. 110 –

  114);

- accepting (obtaining) market data input (marketing information) for

  entering existing data (internal data) about the existing product or service.

  (see pp. 100 – 101);

- accessing a reference database (commercial online database) including

  general market data (secondary data/industry information) applicable to

  the new product or service. (see pp. 106 – 109 and A4 – A5);

- utilizing a standard adoption curve (Figure 5-7) for adoption of the new

  product or service. (see pp. 156 – 159);

- said standard adoption curve (rate of adoption) differs based upon

  characteristics of product or service (costs), and market (social approval).

  (see pp. 156 – 159);

- accessing a reference database (internal database), wherein the

  reference database (internal database) includes revenue data value

  (records of sales, costs and cash flows from accounting) associated with

  the existing product or service. (see pp. 100 – 101);

- consideration of cost data values associated with a new product or service

  (see p. 281); and

- estimating at least one potential revenue stream (sales forecast)

  associated with at least one new product or service, wherein estimating

  comprises generating at least one revenue estimate (sales forecast)

  based on the accepted user input (surveys of market opinion), the revenue

  data value (sales history of similar products), general market data

  (industry sales information) and forecasted demand. (see pp. 281 and A1

  – A8).

Kotler does not teach the underlined limitations – a method comprising:

- accepting user-specific input into a computer relating to an <u>existing</u>

  <u>wireless communications service</u> and the <u>enhanced wireless</u>

  <u>communications service, wherein the user-specific input includes a</u>

wireless application selection for selecting at least one wireless application

supported by the enhanced wireless communications service and a

market data input for entering existing data about the existing wireless

communications service;

- accessing a reference database including general market data applicable

  to the enhanced wireless communications service and a standard

  adoption curve for adoption of the enhanced wireless communications

  service, wherein the reference database further includes a first set of cost

  data values associated with a wireless infrastructure deployment cost and

  a second set of cost data values associated with an operations and

  maintenance cost for the enhanced wireless communications service,

  wherein the reference database further includes a revenue data value

  associated with the existing wireless communications service;

- adjusting the standard adoption curve to obtain an adjusted adoption

  curve based on the accepted user-specific input;

- presenting a graphical depiction of a financial analysis based on an

  evaluation of the at least on potential revenue value, the adjusted adoption

  curve, the general market data, the first set of cost data values, the

  second set of cost data values and the revenue data.

Disclosed Prior Art discloses a method comprising:

- the existence of an existing wireless service (existing basic wireless

  communications service). (see p. 1, line 6 – p. 4, line 10);

- the existence of an enhanced wireless service (enhanced wireless communications service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10); and

- the existence of a cost data value associated with a wireless infrastructure deployment cost. (see p. 1, line 6 – p. 4, line 10).

Kotler does not teach that all steps in the marketing and business analysis methodology are automated. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler to allow for application of standard marketing and business analysis methodology to any product or service that the inventor desired, such as basic wireless services, enhanced wireless services and/or wireless applications available via enhanced wireless services, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler and Disclosed Prior Art to allow for any

user-specific input that the inventor desired, such as a wireless application selection for

selecting at least one wireless application supported by the enhanced wireless service,

as marketing research is tailored to provide information "relevant to a specific marketing

situation facing an organization." (see Kotler, pp. 101 and 109 – 114). In re Kuhle, *526

F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975)*.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler and Disclosed Prior Art to allow for

consideration of any costs associated with the new product or service that the inventor

desired, such as infrastructure deployment costs, as disclosed by Disclosed Prior Art,

and operations and maintenance costs, as costs, in general, are considered in business

analysis of products and services (see Kotler, pp. 281, 305 – 309 and 320). *In re Kuhle,

526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975)*.

Adoption curves are by their very nature a measurement of the rate of adoption

of a product and, as such, the rate of adoption of any two products may differ from the

standard adoption curve, as is old and well known in the art of trend analysis and

forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption

curve, based upon the collection of data, such as user-specific input, is old and well

known in the art of trend analysis and forecasting, as suggested by Dorf which states

that the adoption curve is merely a theoretical model which "oversimplifies a complex

reality" due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler and Disclosed Prior Art by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model's oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Utilizing an adoption curve to forecast demand is old and well known in the art of trend analysis and forecasting, as evidenced by Weerahandi which discusses the use of adoption curves to forecast demand for products and services, specifically telecommunication services. (see pp. 85 – 96). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf and Porter by incorporating the use of the adoption curve to forecast demand, as disclosed by Weerandi, as the adoption curve is a traditional demand forecasting tool.

Graphical representation of financial data and/or financial analysis is old and well known in the art of financial management and information systems, as evidenced by Townsend which discusses graphical representation of financial data and/or financial analysis (see pp. 387 – 397). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter and Weerandi by incorporating the ability to graphical

represent financial data and/or financial analysis conducted, as disclosed by Townsend,

allowing for better communications of said financial date and/or financial analysis

through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend to allow for any graphical representation of the data as

that the inventor desired, as Townsend states "Excel's charting features are extremely

flexible." (see p. 423). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Regarding Claims 2 – 3, Kotler discloses a method wherein:

- accepting (gathering) user-specific input (consumer answers) relating to a
  new product or service (via concept testing and/or test marketing). (see
  pp. 279 – 280 and 282 – 284);

- segmenting a market by geographic region (geographic
  location/geographic units). (see pp. 202 – 215);

- segmenting a market by affluence (income). (see p. 205);

- segmenting a market by multiple factors (geodemographic segmentation).
  (see pp. 209 – 215);

- utilizing a standard adoption curve (Figure 5-7) for adoption of the new
  product or service. (see pp. 156 – 159);

- said standard adoption curve (rate of adoption) differs based upon characteristics of product or service (ie. costs), and market. (see pp. 156 – 159);

- said adoption curve having a slope (Fig. 5-7). (see pp. 156-157); and

- said adoption curve having a saturation point (Fig. 5-7). (see pp. 156 – 157).

Kotler does not teach the underlined limitations – a method wherein:

- the adjusting comprises adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service;

- changing a slope from the standard adoption curve to a revised slope of an adjusted adoption curve based on the user input of a specific geographic region;

- the adjusting step comprises adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service;

- changing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on the user input of a specific geographic region;

- the adjusting comprises changing a saturation point from the standard adoption curve to a revised saturation point of the adjusted adoption curve based on s user input of a specific application;

- increasing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a more affluent region than average for deploying the enhanced wireless communications service;

- decreasing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a less affluent region than average for deploying the enhanced wireless communications service; and

- the adjusting comprises lowering a saturation point from the standard adoption curve to a revised saturation point of the standard adoption curve based on a user input of a particular application.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communications service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any user-specific input that the inventor

desired, such as basic wireless services, enhanced wireless services and/or wireless

applications available via enhanced wireless services, as marketing research is tailored

to provide information "relevant to a specific marketing situation facing an organization."

(see Kotler, pp. 101 and 109 – 114). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9*

(CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend by incorporating segmentation of the user input into

distinct groups to allow for application of standard marketing and business analysis

methodology, such as market segmentation (see pp. 196 – 215), to any product or

service that the inventor desired, such as basic wireless services and/or enhanced

wireless services, as disclosed by Disclosed Prior Art, to utilize traditional

methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 –

257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or

services (see Kotler, pp. 279 – 286). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9*

(CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend by incorporating segmentation of the user input into

distinct groups by any demographic variable that the inventor desired, such as by

geographic region, affluence or a combination of demographic variables, all disclosed

by Kotler, allowing producers to assess the attractiveness of each market segment individually. *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Selecting an item from a library of items on a computer, such as selecting a function and/or variable from a listing of possible functions and/or variables contained in a drop-down menu, is old and well known in the art of information systems, as disclosed by Townsend (see pp.624 – 636). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to select an item from a library of items on a computer, as is disclosed by Townsend, allowing for a user friendly interface.

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating any variable and/or function into the library of items and/or variables for user selection that the inventor desired, such as selection of a geographic region. *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Adoption curves are by their very nature a measurement of the rate of adoption of a product and, as such, the rate of adoption of any two products may differ from the standard adoption curve, as is old and well known in the art of trend analysis and forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption curve, based upon the collection of data, such as user-specific input, is old and well

known in the art of trend analysis and forecasting, as suggested by Dorf which states that the adoption curve is merely a theoretical model which "oversimplifies a complex reality" due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model's oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Differences among adoption curves include differences in the slope and saturation point of adoption curves as is well known in the art of trend analysis and forecasting, as evidenced by Mahajan which discloses that the "exact form of each [adoption] curve, including the slope and the asymptote [saturation point], may differ." (see p. 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption curve's slope and saturation point, as disclosed by Mahajan, allowing for an accurate measurement of the actual rate of adoption of the product which differs by product.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend by incorporating segmentation of the user input into

distinct groups, as disclosed by Kotler, into the adjustment of the adoption curve,

allowing producers to assess the attractiveness of each market segment individually.

Regarding Claim 9 - 10, Kotler discloses a method further comprising the step

of:

- accepting (gathering) user-specific input (consumer answers) relating to a

  new product or service (via concept testing and/or test marketing). (see

  pp. 279 – 280 and 282 – 284);

- estimating revenue (sales projection) of the new product or service. (see

  p. 281);

- estimating costs (cost projections) of the new product or service. (see p.

  281);

- forecasting demand. (see A1 – A8);

- segmenting a market by geographic region (geographic

  location/geographic units). (see pp. 202 – 215);

- utilizing a standard adoption curve (Figure 5-7) for adoption of the new

  product or service. (see pp. 156 – 159); and

- said standard adoption curve (rate of adoption) differs based upon

  characteristics of product or service (ie. costs), and market (ie. marketing).

  (see pp. 156 – 159);

Kotler does not teach the underlined limitations - a method further comprising the step of:

- estimating revenue of the <u>enhanced wireless communications</u> service <u>within</u> a geographic region based on the accepted user input and the adjusted adoption curve; and

- estimating cost of the <u>enhanced wireless communications</u> service <u>within</u> a geographic region <u>based on the accepted user input and the adjusted adoption curve.</u>

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communications service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into distinct groups to allow for application of standard marketing and business analysis methodology, such as market segmentation (see pp. 196 – 215), to any product or service that the inventor desired, such as basic wireless services and/or enhanced wireless services, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or

services (see Kotler, pp. 279 – 286). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Adoption curves are by their very nature a measurement of the rate of adoption of a product and, as such, the rate of adoption of any two products may differ from the standard adoption curve, as is old and well known in the art of trend analysis and forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption curve, based upon the collection of data, such as user-specific input, is old and well known in the art of trend analysis and forecasting, as suggested by Dorf which states that the adoption curve is merely a theoretical model which "oversimplifies a complex reality" due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model's oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Utilizing an adoption curve to forecast demand is old and well known in the art of trend analysis and forecasting, as evidenced by Weerahandi which discusses the use of adoption curves to forecast demand for products and services, specifically telecommunication services. (see pp. 85 – 96). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf and Porter by incorporating the use of the adoption curve to forecast demand, as disclosed by Weerandi, as the adoption curve is a traditional demand forecasting tool.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the use of an adoption curve as a demand forecasting tool, as disclosed by Weerandi, to allow for application of standard marketing and business analysis methodology, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Regarding Claim 17 – 23, further system claims would have been obvious from method claims rejected above, Claims 2 - 7, and are therefore rejected using the same art and rationale.

Regarding Claims 25 - 26, further system claims would have been obvious from

method claims rejected above, Claims 9 - 10, and are therefore rejected using the same

art and rationale.

Claims 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and

Townsend, as in Claims 1 and 17 above, and in further view of Kroenke (Kroenke,

David M. *Database Processing: Fundamentals, Design & Implementation 6th Edition.*

Prentice Hall. Upper Saddle River, New Jersey. 1998).

Regarding Claim 8, Kotler does not teach underlined limitations - a method

further comprising the step of:

- assigning a first level of security for a user with respect to the presenting

  and the accepting and assigning a second level of security higher than the

  first level of security with respect to the user being capable of modifying

  content of the reference database.

Assigning different levels of security to different users is old and well known in

the art of database design, as evidenced by Kroenke which states "A subject is any

identifiable user or user group that can process the database...With subject-oriented

security, the subject is defined to the DBMS, and each is allocated permissions. Before

allowing the subject to perform a database action, the DBMS confirms that he or she or

it has such authority." (see pp. 295 – 296). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have modified Kotler,

Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by

incorporating multiple security levels, as was disclosed by Kroenke, to prevent the

users, from which information is obtained, from deleting or modifying the information

obtained once recorded.

Regarding Claim 24, further system claim would have been obvious from

method claim rejected above, Claim 8, and is therefore rejected using the same art and

rationale.

Claims 11 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and

Townsend, as in Claims 1 and 17 above, and in further view of Finnerty (Finnerty, John

D. *Project Financing: Asset-Based Financial Engineering. John Wiley & Sons.* New

York, New York. 1996. p. 144).

Regarding Claim 11, Kotler discloses a method wherein the presenting

comprises:

- providing a graphical depiction consisting of a market segment graph. (see

  page 209, figure 7-3);

- segmenting the market. (see pp. 196 - 208);

- forecasting subscribers to a new product or service. (see A1 – A8); and

- calculating revenue (sales projections) and cost projections. (cost

  projections). (see p. 281).

Kotler does not teach the underlined a method wherein the presenting

comprises:

- providing a graphical depiction <u>selected from the group consisting of a</u>

  <u>revenue</u> by a market segment graph;

- <u>a cash-flow projection graph;</u>

- <u>number of subscribers by application of the enhanced wireless service;</u>

  <u>and</u>

- <u>number of subscribers by market segment.</u>

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend by incorporating segmentation of the user input into

distinct groups to allow for application of standard marketing and business analysis

methodology, such as market segmentation (see Kotler, pp. 196 – 215), to any product

or service that the inventor desired, such as basic wireless services, enhanced wireless

services and/or applications available via enhanced wireless service, as disclosed by

Disclosed Prior Art, to utilize traditional methodologies when considering line extensions

(see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 –

258) or developing new products or services (see Kotler, pp. 279 – 286). *In re Kuhle,*

526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend by incorporating segmentation of the market into the

standard marketing and business methodologies, such as revenue projections and

demand forecasts, as disclose by Kotler, allowing producers to assess the

attractiveness of each market segment individually.

Cash-flow projections are old and well known in the art of financial and business

analysis, as evidenced by Finnerty (see p. 144). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have modified Kotler,

Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by

incorporating a cashflow projection, as disclosed by Finnerty, to assess the

attractiveness of new product or service.

Graphical representation of financial data and/or financial analysis is old and well

known in the art of financial management and information systems, as evidenced by

Townsend which discusses graphical representation of financial data and/or financial

analysis, such as a graphical depiction of revenue by market segment. (see Townsend,

pp. 387 – 397). It would have been obvious to one of ordinary skill in the art at the time

the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin,

Dorf, Porter, Weerandi, Townsend and Finnerty by incorporating the ability to graphical

represent financial data and/or financial analysis conducted, as disclosed by Townsend,

allowing for better communications of said financial date and/or financial analysis

through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf,

Porter, Weerandi and Townsend to allow for any graphical representation of the data as

that the inventor desired, as Townsend states "Excel's charting features are extremely

flexible." (see p. 423). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Regarding Claim 27, further system claim would have been obvious from

method claim rejected above, Claim 11, and is therefore rejected using the same art

and rationale.

Claims 12 - 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend, as

in Claim 1 above, and in further view of Heizer (Heizer, Jay & Render, Barry. *Operations*

Management 5th Edition. Prentice Hall. Upper Saddle River, New Jersey. 1999. pp. 139

– 176, 246 – 262 and 703 - 714).

Regarding Claims 12 – 13, Kotler discloses a method wherein:

- financial analysis of new product or service. (see p. 281); and

- variable factors considered in said financial analysis:

    - operating costs (costs/variable costs) of the product or service. (see

      pp. 281 and 305 - 309);

    - investment costs (costs/fixed costs) of the product or service. (see pp.

      281 and 305 – 309);

    - market uptake (sales/demand) of the product or service. (see pp. 281

      and 309 – 319);

    - usage rate (sales/demand) of the product or service. (see pp. 281 and

      309 – 319); and

- price level (price) for the product or service (see pp. 303 – 319. Price calculations inherent in profit projections utilized in business analysis – see p. 281).

Kotler does not teach the underlined limitations - a method wherein:

- the financial analysis comprises a sensitivity analysis showing sensitivity of net present value of a business based on the enhanced wireless communications service to a change in at least one variable factor; and

- the at least one variable factor is selected from the group consisting of operating costs of the enhanced wireless service, investment costs of the enhanced wireless service, market uptake of the enhanced wireless service, usage rate of the enhanced wireless service, and price level for service offerings of the enhanced wireless service.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communications service). (see p. 1, line 6 – p. 4, line 10).

Heizer discloses a method wherein:

- the financial analysis comprises an analysis of net present value of a business based on a product or service. (see pp. 257 - 262);

- said net present value is based upon a number of variable factors. (see pp. 257 - 261);

- the financial analysis comprises a sensitivity analysis showing the

  sensitivity of financial analysis of a business based upon a change in at

  least one variable factor (parameter). (see pp. 703 - 714);

- variable factors considered in financial analysis include:

  - operating costs (costs/variable costs) of product or service. (see p.

    257);

  - investment costs (costs/investment cost) of product or service. (see p.

    257);

  - market uptake (volume/demand) of the product or service. (see pp.

    139 – 176 and 257);

  - usage rate (volume/demand) of the product or service. (pp. 139 – 176

    and 257); and

  - price level for the product or service. (p. 257 – It is inherent that a price

    level would need to be determined in order to calculate revenue, cash

    flow and net present value.)

It would have been obvious to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the application

of standard marketing and business analysis methodology, such as business analysis

utilizing standard factors in said analysis (see Kotler, p. 281), to any product or service

that the inventor desired, such as basic wireless services, enhanced wireless services,

and/or applications available via enhanced wireless service, as disclosed by Disclosed

Prior Art, to utilize traditional methodologies when considering line extensions (see

Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258)

or developing new products or services (see Kotler, pp. 279 – 286). *In re Kuhle, 526*

F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating a net present

value calculation, as disclosed by Heizer, and a sensitivity analysis, as disclosed by

Heizer, of said calculation allowing for the application of standard business analysis

methodologies to a business concern that is contemplating a strategic investment and is

basing its business analysis upon projections, which may contain some fluctuations

and/or variance.

Selecting an item from a group of items on a computer, such as selecting a

function and/or variable from a listing of possible functions and/or variables contained in

a drop-down menu, is old and well known in the art of information systems, as disclosed

by Townsend (see pp.624 – 636). It would have been obvious to one of ordinary skill in

the art at the time the invention was made to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the

ability to select an item from a library of items on a computer, as is disclosed by

Townsend, allowing for a user friendly interface.

Regarding Claim 14, Kotler does not teach the underlined limitations - a method

wherein the financial analysis comprises:

- a bar chart of different variable factors potentially impacting net present

  value of a business based on the enhanced wireless communications

> service, the variable factors presented as horizontally extending bars
>
> along a vertical axis, a respective percentage change in the net present
>
> value for a corresponding incremental constant change in a variable
>
> factor indicated by the horizontal length of the bar from the vertical axis.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless

  communications service). (see p. 1, line 6 – p. 4, line 10).

Heizer discloses a method wherein the financial analysis comprises:

- different variables potentially impacting net present value of a business

  based on a product or service. (see pp. 257 - 262).

Townsend discloses a method wherein the financial analysis comprises:

- a bar chart, the variable factors presented as horizontally extending bars

  along a vertical axis. (see pp. 423 – 454, specifically p. 425, Fig. 20.2).

It would have been obvious to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the

application of standard marketing and business analysis methodology, such as

calculation of net present value (see Heizer, pp. 257 - 262), to any product or service

that the inventor desired, such as basic wireless services, enhanced wireless services,

and/or applications available via enhanced wireless service, as disclosed by Disclosed

Prior Art, to utilize traditional methodologies when considering strategic investments.

(see Heizer, pp. 257 – 262). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA*

1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the ability to graphical represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communications of said financial date and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any graphical representation of the data as that the inventor desired, as Townsend states "Excel's charting features are extremely flexible." (see p. 423). *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Regarding Claims 15 – 16, Kotler discloses a method wherein:

- the financial analysis comprises graphing demand based upon average revenue (selling price/product price multiplied by quantity/units) per users (buyers/customers) per measured time interval year. (see pp. 328 – 345 and A1 – A14, specifically A1 – A2);

- creating market segments. (see pp. 196 – 215); and

- the market segments include an adult market segment (age and life cycle segmentation), a youth market segment (age and life cycle segmentation), a large business market segment (business market segmentation by company size), a medium business market segment (business market

segmentation by company size), and small business market segment

(business market segmentation by company size). (see pp. 196 – 215).

Kotler does not teach the underlined limitations - a method wherein:

- the financial analysis comprises a graph of average revenue per user per

  a measured time interval, the graph including a group of plotted lines

  representing said average revenue per user within different market

  segments versus time.

Heizer discloses a method wherein:

- the financial analysis comprises graphing revenue per unit per a

  measured time interval, the graph representing revenue versus time. (see

  pp. 246 – 256).

Townsend discloses a method wherein the financial analysis comprises:

- the financial analysis comprises a graph of revenue per product versus

  time. (see pp. 423 - 431);

- the graph including a group of plotted lines representing said revenue per

  product versus time. (see pp. 423 – 431); and

- the graph of revenue within different market segments (geographic

  segments). (see pp. 423 - 431).

It would have been obvious to have modified Kotler, Disclosed Prior Art,

Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the

application of standard marketing and business analysis methodology, such as analysis

of revenue over time, average revenue over time and average revenue per user per

measured time interval, and division of said revenue and/or users into market segments (see Heizer, pp. 257 – 262 and Kotler, pp. 196 – 215 and 281), to utilize traditional methodologies when considering strategic investments. (see Heizer, pp. 257 – 262), line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the ability to graphical represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communications of said financial date and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer to allow for any graphic representation of financial data and/or financial analysis that the inventor desired, such as the net present value and impacting variables on said net present value, as disclosed by Heizer. *In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).*

Response to Arguments

Applicant's arguments filed 6/13/06 have been fully considered but they are not persuasive.

    In response to applicant's arguments that there is no suggestion to combine the prior art references, the Courts have stated that "[a] suggestion, teaching, or _**motivation**_ to combine the relevant prior art teachings _**does not have to be found explicitly in the prior art**_, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references...The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art... there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (emphasis added). *In re Kahn, 78 USPQ2d 1329, 1336 (CA FC 2006).* Examiner asserts that he can and/or has provided such "articulated reasoning" to support the legal conclusion of obviousness.

    In response to applicant's piecemeal analysis of the references, "one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references." *In re Keller, Terry, and Davies, 208 USPQ 871, 882 (CCPA 1981).* In the instant case, applicant refutes each prior art reference individually, rather than viewing them in combination, in light of the totality of their combined teachings.

    In response to applicant's argument that prior art reference(s) do not disclose "inputting data related to _both_ existing _and_ new products/services in a single method" (emphasis added), examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the

teaching(s) of Kotler, to accept inputting data related to both an existing and a new product/service. Kotler discloses accepting user-specific input relating to a new product or service, such as through testing of new product/service concepts (see pp. 279 – 280) and examining the potential benefits of launching a new product/service (see pp. 280 – 282). Kotler also discloses accepting user-specific input relating to a new product/service or an existing products/service such as through collection of marketing research (see pp. 109 – 114). It would have been obvious to one of ordinary skill in the art that the conventional and standard marketing techniques, as disclosed by Kotler, could be applied to multiple new products/services exclusively, multiple existing products/services exclusively, or a combination of new and existing products/services, both in one method or spread across multiple methods.

In response to applicant's argument that prior art reference(s) do not disclose "user-specific input that includes a wireless application supported by an enhanced wireless communications service," examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of Kotler and Disclosed Prior Art, to accept input that includes a wireless application supported by an enhanced wireless communications service. Kotler discloses collecting input regarding a product/service through marketing research (see pp. 109 –114). Disclosed Prior Art discloses the existence of an enhanced wireless communications service and wireless applications supported by said service. (see pp. 1 – 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the standard and conventional

marketing research collection techniques, as disclosed to Kotler, to collect information

about any product/service that the inventor desired, such as wireless applications, as

disclosed by Disclosed Prior Art, soft drinks, airlines or tax preparation services.

In response to applicant's argument that prior art reference(s) do not

disclose "access[ing] a database that includes cost data values associated with

an enhanced wireless communications service _and_ revenue data value

associated with an existing wireless communications service" (emphasis added),

examiner asserts that it would have been obvious to one of ordinary skill in the art at the

time the invention was made, based upon the teaching(s) of Kotler and Disclosed Prior

Art, to access a database that includes cost data values associated with an enhanced

wireless communications service and revenue data value associated with an existing

wireless communications service. Kotler discloses accessing an internal database that

contains information concerning the relevant product/service such as "detailed records

of sales, costs and cash flows." (see p. 100). Disclosed Prior Art discloses the existence

of an existing wireless communications and a enhanced wireless communications

service. (see pp. 1 – 4). It would have been obvious to one of ordinary skill in the art at

the time the invention was made to have modified the internal database maintained as a

standard and conventional tool utilized in marketing research, as disclosed to Kotler, to

contain information, such as revenue (sales) and costs, as disclosed by Kotler, for any

product/service that the inventor desired, such as wireless communications services.

In response to the applicant's argument that the specification does not

constitute Disclosed Prior Art, the MPEP states that when "the specification's

background of the invention describes information as being known or conventional, [it] may be considered as an admission of prior art." *MPEP § 704.11 (a).* To that end, the background does utilize terminology that indicates the disclosed information is known or conventional through the use of language such as "commonly", "frequently", "conventionally" and/or "traditionally." Therefore, examiner asserts that information contained within the specification under the title "Background of the Invention" is an admission of prior art and, therefore, Disclosed Prior Art.

Furthermore, Disclosed Prior Art is being utilized to establish the existence of (1) "*existing* basic wireless communications services" (see p. 1, lines 7 – 8), (2) enhanced wireless communications services (GPRS and UMTS – see p. 2, line 23 – p. 3, line 26), (3) applications that function on said enhanced wireless services and (4) infrastructure costs for said communications services (which "*generally* requires a substantial investment of capital" – see p. 2, lines 1 – 3 – emphasis added).

In response to applicant's argument that Examiner statement, "standard marketing and business analysis methodology", is vague and has no basis in law, Examiner asserts such argument is incorrect. Kotler, a general marketing textbook, discloses standard marketing and business analysis methodology, such as collecting market research to gauge a marketplace and accessing the financial benefits of operating in said marketplace. Kotler has general applicability to any product/service, including wireless communications services, either existing or enhanced.

As to *In re Kuhle*, such case law relates to design choice. Examiner asserts that application of standard marketing and business analysis methodology, as disclosed by

Kotler, to wireless communications services, rather than to teddy bears or fast food restaurants, is purely a matter of design choice, as the product/service that Kotler is applied to does not change and/or alter the functionality of Kotler.

In response to applicant's argument that prior art reference(s) do not disclose "adjusting a standard adoption curve," examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of prior art reference(s), to adjust a standard adoption curve. Kotler discloses a standard adoption curve and that the rate of adoption, as embodied by the adoption curve, differs based upon characteristics of the product/service, such as costs and social acceptance (see pp. 156 – 159). As discussed previously, Kotler is a general marketing textbook, and the marketing and business methodologies contained therein have general applicability to any product/service, including wireless communications services, existing or enhanced. Furthermore, Weerhandi discloses the utilization of rates of adoption, such as communicated via an adoption curve, as disclosed by Kotler, to forecast demand and, specifically, to forecast demand for telecommunication services.

Unfortunately, adoption curves and rates of adoption of a product/service differ between products/services. Bohlin discloses that "[a]nother point worthy of note is the slope of the Home PC adoption curve is noticeably flatter in the growth phase than any of the adoption curves for consumer electronics devices" (see p. 15). Meanwhile, Mahajan discloses that the diffusion pattern of most innovations can be described by a general curve but that each curve may differ. (see p. 8). As the diffusion pattern of an

innovation throughout society is dependent upon the adoption rate of innovations by members of society, the adoption rate of innovations may differ.

One must realize that a standard adoption curve is merely a model and, as such, is an oversimplification. In fact, Dorf discloses that "any theoretical model of a social process oversimplifies a complex reality." (see p. 3 – 25).

Therefore, the standard adoption curve, the theoretical model, must be adjusted to account for differences between products/services, as disclosed by Bohlin and Mahajan, to provide the most accurate representation of the rate of adoption. As Porter discloses in his discussion of model building, which the adoption curve most is, that data is collected "and the data are then analyzed to modify the framework within which empirical work takes place." (see p. 91).

In response to applicant's argument that prior art reference(s) do not disclose "generating a revenue estimate based on adjusted adoption curve," examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of prior art reference(s), to generate a revenue estimate based on an adjusted adoption curve. As previously discussed, prior art reference(s) disclose the adjusting of the adoption curve to more accurately reflect the actual rate of adoption. Kotler discloses a business analysis of products through "sales, costs and profit projections" (see p. 281) and through analysis of revenue based upon market demand (see A1 – A5). Weerhandi discloses the utilization of rates of adoption, such as communicated via an adoption curve, as disclosed by Kotler, to forecast demand and, specifically, to forecast demand for

telecommunication services. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have generated a revenue estimate based upon forecasted demand, as communicated through the adjusted adoption curve, to obtain an accurate revenue estimate, allowing parties to determine the financial benefit of engaging in a particular activity.

In response to applicant's statement that "claim 1 is silent as to automating the method," examiner asserts that various steps of the claimed method, such as accepting input and accessing a database, are performed on a computerized system and are, therefore, automated. Examiner sought to assert that while prior art reference(s) may or may not disclose such steps of the claimed method being performed on a computerized system, automation of prior art reference(s) disclosing manually performed functions would be considered per se obvious in light of *In re Venner*.

In response to applicant's refutation that the prior art reference(s) offered by examiner fails to disclose applicant's claim limitations as in Claims 2 - 7, 37 CFR § I.III(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the prior art references utilized.

In response to applicant's argument that prior art reference(s) do not disclose "estimating revenue (Claim 9) or cost (Claim 10) within a geographic

region," examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of Kotler, to generate revenue and cost estimates within a geographic region. Kotler discloses a business analysis of products through "sales, costs and profit projections" (see p. 281), such sales and cost projections are revenue and cost estimates. Kotler further discloses segmenting a market by geographic segments. (pp. 202 – 205). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have estimated the revenue and cost, as disclosed by Kotler, by geographic region, as disclosed by Kotler, allowing parties to analysis the profitability for a product/service by geographic region. Furthermore, as production and sales are based upon demand, and demand is communicated via the adjusted adoption curve, it would have been obvious to one of ordinary skill in the art at the time the invention to have estimated revenue and cost based upon the adjusted adoption curve, thereby basing such figures upon demand.

In response to applicant's arguments concerning the §103 rejection of Claims 17 – 23, 25 and 26, as applicant's arguments concerning Claims 17 – 23, 25 and 26 are similar to applicant's arguments concerning Claims 1 – 7, 9 and 10, examiner refutes applicant's arguments using the same art and rationale as applied against applicant's arguments concerning Claims 1 – 7, 9 and 10.

Applicant additionally argues that prior art reference(s) do not disclose an "user interface," an "estimator" and an "application tailoring module," examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was

made, based upon the teachings of prior art reference(s), to utilize an estimator and an application tailoring module. Kotler discloses accepting user-specific input, such as through marketing research, (see pp. 279 – 280) and estimating a potential revenue value (sales forecast) (see pp. 281 and A1 – A8). As discussed previously, prior art reference(s) in combination, disclose adjusting a standard adoption curve.

As stated in the previous Office Action (see p. 18), system claims would have been obvious based upon the method claims. Examiner asserts that based upon such teaching(s) it would have been obvious that a system designed to implement a method would require components through which the previous method could be performed. Therefore, an input interface (system) through which to receive input (method), an estimator (system) to perform estimating (method), and an application tailoring module for adjusting a standard adoption curve (system) in place of adjusting a standard adoption curve (method) would have been obvious to one of ordinary skill in the art at the time the invention was made.

In response to applicant's arguments concerning the §103 rejection of Claims 8 and 11 - 16, as applicant's arguments concerning Claims 8 and 11 are similar to applicant's arguments concerning Claims 1 – 7, 9 and 10, examiner refutes applicant's arguments using the same art and rationale as applied against applicant's arguments concerning Claims 1 – 7, 9 and 10.

Furthermore, in response to applicant's argument that prior art reference(s) do not disclose "a bar chart of different variables potentially impacting net present value of a business based on the enhanced wire communications," examiner asserts that it

would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of prior art reference(s), to generate a bar chart of different variables potentially impacting net present value of a business based on the enhanced wire communications. Heizer discloses that it is a standard and conventional practice, as part of financial and business analysis, to examine the factors affecting net present value (see pp. 257 - 262). Heizer, as a general textbook regarding operations management, and the standard and conventional business analysis methodologies contained therein, are applicable to any product/service, including enhanced wireless communications. Townsend discloses the generation of a bar chart, the variable factors presented as horizontally extending bars along a vertical axis. (see pp. 423 – 454, specifically p. 425, Fig. 20.2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have generated a bar chart of different variables, as disclosed by Townsend, the different variables being those that impact the net present value of a business, as disclosed by Heizer, allowing for graphical representation and better understanding of the financial information.

In response to applicant's arguments concerning the §103 rejection of Claim 24 and 27, as applicant's arguments concerning Claims 24 and 27are similar to applicant's arguments concerning Claims 17 – 23, 25 and 26, examiner refutes applicant's arguments using the same art and rationale as applied against applicant's arguments concerning Claims 17 – 23, 25 and 26.

Conclusion

   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason M. Borlinghaus whose telephone number is (571)

272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on (571) 272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

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ELLA COLBERT
PRIMARY EXAMINER